

REMARKS

Claims 41, 45, 46 and 47 have been canceled. Claims 36-38, 40, 42, 49, 50, 52, 57, 60-63 and 66 have been amended. New Claim 67 has been added. None of the amendments provided herein are believed to narrow the claims and only serve to clarify the intended scope of the claims. Additionally, Applicants assert that all amendments are supported by the application-as-filed and that no new matter has been added.

Claims 36-40, 42-44, 48-55 and 57-67 are now in the application. Claims 50-53, 60 and 61 are allowed. Claims 63 and 64 are indicated as containing allowable subject matter. Claim 63 has been placed in independent form with modest amendment. The indication of allowability is appreciated. Minor amendments have been made to respective ones of the allowed Claims to improve clarity. Reconsideration of the application is requested in light of the foregoing amendments and the following remarks.

Rejection of Claims under 35 U.S.C. §102 (e)

Claims 36-41 stand rejected under 35 U.S.C. §102 (e) as being anticipated by Sauer (5,527,300). Applicants respectfully traverse all such rejections.

Independent Claim 36 has been amended to recite "the additional strip of material (28) having a portion therein wherein openings formed *therethrough* are spaced from each other by areas of the portion which are devoid of such formed openings...."

In rejecting Claim 36, the Examiner asserts that "the web of sheet material having openings, as disclosed in column 15, lines 14-16 [of Sauer]" (Office Action dated 05/21/03, page 2, ¶3, lines 6-7). Specifically, Sauer, column 15, lines 14-16 recites, "[t]he bodyside layer of the wrap sheet may comprise one of the previously described wrap sheet materials which has a relatively low porosity." Accordingly, Applicants assume that the Examiner asserts that a porous material *necessarily* has openings.

While one can argue (Applicants do not accept such argument) that a porous material has openings, neither Sauer, nor any other reference of record teaches or suggests an element corresponding to the additional strip (28) having formed openings

in combination with areas which are devoid of such formed openings. Accordingly, Applicants submit that the rejection based on Sauer has been overcome, and respectfully request that the rejection of Claim 36, and all claims dependent therefrom be withdrawn.

Claims 37-40 and 43 stand rejected under 35 U.S.C. §102 (e) as being anticipated by Sauer (5,527,300), apparently with reference, directly or indirectly to the rejection of independent Claim 36. As previously stated, Applicants assert that amended Claim 36 defines over all references of record. As such, Applicants further assert that Claims 37-40 and 43 are allowable as depending from allowable Claim 36. However, Claims 37-40 and 43 also stand on their own merits, in addition to the allowability provided by allowable Claim 36.

For instance, Claim 38 recites “the undulating strip of material selectively facilitates transfer of fluid longitudinally, along the length of said absorbent article, into one or both the front area and the rear area of the absorbent article.”

Regarding Claim 43, the Examiner asserts that in Sauer, “[t]he front and rear areas 12 and 14 may be defined as larger than the central area, and therefore comprise a greater volume of the liquid storage layer 48. The liquid storage layer 48 therefore has a higher retention capacity on the front area 12 or rear area 14 than in the central area” (Office Action dated 05/21/03, page 3, fifth full ¶, lines 2-5). However, Claim 43 recites “the liquid storage layer having a higher liquid retention capacity *per unit area* of said absorbent article in the respective one or both of the front area or the rear area than in the central area,” thereby defining patentably over Sauer.

Actually, Sauer teaches away from a higher liquid retention capacity per unit area of said absorbent article in the respective one or both of the front area or the rear area than in the central area, by teaching that it would NOT be desirable to do so. Specifically, Sauer teaches:

[t]he fluff and superabsorbent particles can be selectively placed into desired zones of retention portion 48. . . the majority of the superabsorbent may be distributed down a ***medial region*** of retention portion 48. . . superabsorbent material may have a selected zoned placement to ***reduce the amount of superabsorbent material located proximate the side and end edges*** of the retention portion” (Sauer Col.13, Lines 44-58 (emphasis added)).

Thus, Sauer does not teach or suggest a higher liquid retention capacity per unit area of said absorbent article in the respective one or both of the front area or the rear area than in the central area. Accordingly, Applicant's assert that Claims 37-40 and 43 stand on their own merits, in addition to the allowability provided by allowable Claim 36. As such, Applicants respectfully assert that Claims 37-40 and 43 are allowable, and request that the rejection be withdrawn.

Rejection of Claims under 35 U.S.C. §102 (b)

Claims 49, 54, 55, 57-59 and 66 stand rejected under 35 U.S.C. §102 (b) as being anticipated by Gilman et al. (5,437,653; hereinafter "Gilman"). Applicants respectfully traverse all such rejections.

Independent Claim 49 has been amended to recite an "uppermost layer [of said liquid distribution layer] being positioned between said liquid permeable layer and said at least one take-away layer, and being devoid of such passages therethrough...."

Gilman fails to teach or suggest any liquid distribution layer, any liquid distribution layer which is devoid of such passages, or any liquid distribution layer devoid of such passages between the liquid permeable layer and the liquid storage layer. Accordingly, Applicants submit that the rejection based on Gilman has been overcome, and respectfully request that the rejection of Claim 49 be withdrawn.

Claims 54, 55, 57-59 and 66 stand rejected under 35 U.S.C. §102 (b) as being anticipated by Gilman, apparently with reference, directly or indirectly to the rejection of independent Claim 49. As previously stated, Applicants assert that amended Claim 49 defines over all references of record. As such, Applicants further assert that Claims 54, 55, 57-59 and 66 are allowable as depending from allowable Claim 49. However, Claims 54, 55, 57-59 and 66 also stand on their own merits, in addition to the allowability provided by allowable Claim 49

For instance, Claim 54 recites "the liquid storage layer having a higher liquid retention capacity per unit area of said absorbent article in the respective at least one of the front area and the rear area of the absorbent article, than in the central area."

For Example, Claim 58 recites "the passages of the liquid distribution layer being disposed exclusively in one or both of the front area and the rear area of the absorbent article whereby the central area is devoid of the feet."

Also, for example, Claim 66 recites "said discrete passages tapering inwardly toward the liquid storage layer." None of these recitations are taught or suggested by Gilman. As such, Applicants assert that Claims 54, 55, 57-59 and 66 are allowable, both as depending from allowable Claim 49, and on their own merits. Accordingly, withdrawal of the rejection is respectfully requested.

Rejection of Claims under 35 U.S.C. §103 (a)

Claim 41 stands rejected under 35 U.S.C. §103 (a) as being unpatentable over Sauer, in view of Gilman. In addition, Claim 41 stands rejected under 35 U.S.C. §103 (a) as being unpatentable over Sauer, in view of Cohen et al (5,569,226; hereinafter Cohen). Applicants respectfully traverse all such rejections. As previously mentioned, Applicants assert that amended independent Claim 36 defines over all references of record. As such, the rejection in regards to Claim 41 is believed to be without merit. Please see *supra*, section: Rejection of Claims under 35 U.S.C. §102 (e), for a discussion on the patentability of independent Claim 36. Accordingly, withdrawal of the rejection is respectfully requested.

In spite of the apparent patentability, but in order to reduce the number of issues after the Final Action, Claim 41 has been cancelled.

The Examiner refers to a rejection of Claim 41 under 35 U.S.C. §103 (a) as being unpatentable over Sauer, in view of Cohen (Office Action dated 05/21/03, extending from page 5, ¶5, line 6, to page 6, ¶1, line 4). Applicants believe that the Examiner is actually referring to pending Claim 42, because the specific Claim language referred to. Accordingly, Applicants will respond as though the rejection was in regards to Claim 42.

Claim 42 is allowable as depending from allowable Claim 36, as well as on its own merits. The Examiner relies on Cohen, asserting that Column 6, Lines 43-45 disclose "an uncreped through-air-dried material" (Office Action dated 05/21/03, extending from page 5, ¶6, line 2, to page 6, ¶1, line 2). Specifically, Cohen Column 6, Lines 43-45 recites "[a]way from the body and in fluid communication with the first layer, there is a second, air-laid layer comprising hydrophilic fibers."

Those skilled in the art recognize an "air-laid" layer as indicating a layer forming process, as distinguished from an "uncreped-through-air-dried" layer as indicating a layer drying process. Typically air-laid layers are not uncreped-through air-dried; and

uncreped-through-air-dried layers are not air-laid layers. Applicants submit that it is improper for the Examiner to artificially assert the combination from a reference which does not teach such combination, where practice in the art suggests away from such combination.

Thus, the references of record do not teach or suggest "said at least one web comprises an uncreped through-air-dried material." Accordingly, withdrawal of the rejection is respectfully requested.

Claims 44 and 45 stand rejected under 35 U.S.C. §103 (a) as being unpatentable over Sauer. Applicants respectfully traverse the rejection. Additionally, Applicants assert that the amendment to Claim 36 obviates the rejection. It is also believed that Claims 44 and 45 are allowable on their own merits, as well as depending from allowable Claim 36. For instance, there is no objective motivation to modify Sauer to include "at least part of the liquid storage layer at areas of the liquid distribution layer and of the liquid storage layer, which are brought into contact with one another via compression." Accordingly, withdrawal of the rejection is respectfully requested.

Claims 46 and 47 stand rejected under 35 U.S.C. §103 (a) as being unpatentable over Sauer, in further view of Chappell et al (H1511; hereinafter Chappell). Applicants respectfully traverse the rejection, and assert that Claims 46 and 47 are allowable over the references on the basis of their dependence on allowable Claim 36, as well as on their own merits. Accordingly, withdrawal of the rejection is respectfully requested.

Claim 48 stands rejected under 35 U.S.C. §103 (a) as being unpatentable over Sauer, in further view of Ahr et al (4,323,069; hereinafter Ahr). Applicants respectfully traverse the rejection, and assert that Claim 48 is patentable over the references on its own merits, as well as the patentability provided through allowable Claim 46.

The Examiner asserts that "Ahr discloses a liquid distribution layer 40 comprising a plurality of funnel-shaped openings that taper inwardly, as shown in figure 5" (Office Action dated 05/21/03, extending from page 7, ¶3, line 2 to line 4). Specifically, the structures which the Examiner refers to are "tapered capillaries 42, [located in an] [i]ntermediate layer 40 [which] is manufactured from a liquid impervious material such as low density polyethylene film..." (Ahr, Col.11, Lines 51-60; emphasis added). Thus, the references do not teach, nor do they provide objective motivation

for "the liquid distribution layer comprising fibrous compositions about said openings, wherein the openings in the liquid distribution layer have discharge ends at a major surface of said liquid storage layer, for transferring fluid, such funnel-shaped openings tapering inwardly toward the liquid storage layer." Accordingly, withdrawal of the rejection is respectfully requested.

Claims 62 and 65 stand rejected under 35 U.S.C. §103 (a) as being unpatentable over Gilman (5,803,920; hereinafter Gilman) in further view of Ahr. Applicants respectfully traverse the rejection, and further assert that the amendments to independent Claim 62 obviate the rejection as to both Claims.

Regarding independent Claim 62; amended independent Claim 62 recites:

said liquid distribution layer including at least first and second take-away layers each having openings defining discrete passages, respective openings of said first take-away layer and said second take-away layer being spaced laterally from each other, with layer-to-layer surface interface between a first take-away layer and any said opening on said second take-away layer.

With respect to Claim 62, the Examiner asserts that "Ahr discloses a liquid distribution layer 40 comprising a plurality of funnel-shaped openings that taper inwardly, as shown in figure 5" (Office Action dated 05/21/03, extending from page 8, ¶2, line 1 to line 2). The Examiner has not even asserted the claimed first, and second take-away layers, whereby the Examiner has clearly failed to set forth a case of *prima facie* obviousness.

There is no objective motivation to modify any reference of record to arrive at the claimed invention. Accordingly, withdrawal of the rejection is respectfully requested.

The rejection to Claim 65 is obviated by the amendment to independent Claim 62. Accordingly, withdrawal of the rejection is respectfully requested.

Applicants thus submit that all bases of rejection and objection have been overcome, and that all claims as presented herein are allowable over all references of record. Allowance of all claims is respectfully solicited.

A fee of \$168 is due for the two additional independent Claims. A Check in the amount of \$168 is enclosed herewith to pay such fee. Should any other fee be properly due, or if any fee submitted herewith is insufficient, or if any refund is due,

SN 09/855,045

-19-

29226-1PCT/US / KC13,065.1
Patent

kindly charge same, or credit any overpayment, to Deposit Account 23-2130.

Please feel free to contact me with any questions, comments or concerns, at the telephone number listed at the end of this document.

Customer Number: 23482

August 21, 2003
Appleton, Wisconsin
920-831-0100
920-831-0101 FAX

Respectfully submitted,
Maria Raidel et al.

By: Thomas D. Wilhelm
Thomas D. Wilhelm
Attorney for Applicants
(Reg. No. 28,794)